

Message Text

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ACTION NASA-02

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DEPARTMENT PLEASE PASS NASA

EO 11652: NA
TAGS: NASA, AS
SUBJECT: NASA EXCHANGE: PETROL EXCISE TAX EXEMPTION AND REBATE

1. FOR SEVERAL YEARS THIS EMBASSY HAS BEEN SEEKING REDRESS FOR THE EXCISE TAX WHICH NASA FEELS IT HAS WRONGFULLY HAD TO PAY ON THE GASOLINE (PETROL) USED BY VEHICLES IT IS REQUIRED TO PROVIDE UNDER AUSTRALIAN LABOR AWARDS FOR TRANSPORTING AUSTRALIAN EMPLOYEES TO AND FROM ITS SEVERAL TRACKING STATIONS. IT IS CONSIDERED BY NASA THAT THESE TAX PAYMENTS VIOLATE THE SPIRIT OF THE ORIGINAL AGREEMENT. OVER THE YEARS THESE PAYMENTS HAVE EXCEEDED \$100,000.

2. LENGTHY NEGOTIATIONS AT WORKING LEVELS TO SECURE THE REIMBURSEMENT TO NASA OF PAST EXCISE TAX PAYMENTS AND AUTHORITY TO DISCONTINUE FUTURE SUCH PAYMENTS HAVE MET WITH A WIDE VARIETY OF PRO AND CON OPINIONS FROM DIFFERENT GOA OFFICIALS IN DFA, TAXATION COMMISSION, AG'S AND DOD BUT NO READY RESOLUTION APPEARS POSSIBLE. DFA HAS STATED THAT IF IT WERE NOW FORCED TO GIVE AN OFFICIAL REPLY TO THE EMBASSY'S REQUEST IT WOULD BE TO DENY IT.

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PAGE 02 CANBER 04398 070608Z

3. A REASON FOR A NEGATIVE FINDING CITED BY A QUEEN'S COUNSELOR IN AG'S IS THAT UNDER THE EXCHANGE OF NOTES (25 MARCH 1979) BETWEEN GOA AND THE USG CONSTITUTING AN AGREEMENT CONCERNING SPACE VEHICLE TRACKING AND COMMUNICATIONS FACILITIES, THERE IS A STATEMENT IN PARA 9 (3) WHICH PERMITS REBATE OF DUTIES AND TAXES WHICH MAY

BEEN IMPOSED ON SUPPLIES OR PROPERTY WHICH HAVE BEEN
"WHOLLY CONSUMED ON SITE." ETC. THE QC MAINTAINS THAT
GASOLINE USED IN TRANSPORTING EMPLOYEES IS NOT CONSUMED
ON SITE.

4. NASA MAINTAINS, TO THE CONTRARY, THAT THE GASOLINE
IS DELIVERED TO TANKS AT NASA'S TRACKING STATIONS, IS
PAID FOR BY NASA AND HENCE BECOMES USG PROPERTY AND WHEN
IT IS PUMPED INTO VEHICLES WHICH ARE OPERATED AT NASA
EXPENSE IT IS TO ALL INTENTS AND PURPOSES "CONSUMED ON
SITE." GOA IS INCONSISTENT IN THIS MATTER INASMUCH AS
THE TAXATION COMMISSION, AT THE REQUEST OF THE DEPARTMENT
OF SCIENCE WHICH MANAGES NASA'S AFFAIRS IN AUSTRALIA,
SEVERAL YEARS AGO GRANTED SALES TAX EXEMPTION ON SPARE
PARTS, TIRES, BATTERIES, BRAKES, AND LUBRICATING OIL
FOR THE VEHICLES UNDER QUESTION AND IT IS OBVIOUS THAT
THESE ITEMS, LIKE THE GASOLINE, BECOME A PART OF THE
VEHICLE WHEN DRAWN FROM NASA'S INVENTORY AND INSTALLED
IN CARS AT THE NASA SITE, ALTHOUGH THEY ARE ACTUALLY
CONSUMED EN ROUTE TO AND FROM THE SITE.

5. NASA CONSIDERS THAT THIS SPARE PARTS PRECEDENT BY
GOA JUSTIFIES SIMILAR EXEMPTION FROM PAYMENT OF THE
GASOLINE EXCISE TAX AND ALSO THE REBATE OF PAST TAX
PAYMENTS FOR WHICH COMPLETE RECORDS ARE AT HAND. OUR
NEGOTIATIONS ARE LIKELY TO FAIL UNLESS THIS MATTER IS
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PAGE 03 CANBER 04398 070608Z

TAKEN TO HIGHER LEVELS OF GOA. WE CONSIDER IT DESIRABLE
TO RESOLVE THIS ISSUE BEFORE NEGOTIATIONS BEGIN FOR THE
RENEWAL OF THE INTERGOVERNMENTAL TRACKING STATION AGREE-
MENT DUE TO BECOME EFFECTIVE FEBRUARY 26, 1980.

6. DEPARTMENT AND NASA ARE REQUESTED TO PROVIDE LEGAL
ADVICE AND COUNSEL US AS TO WHETHER WE SHOULD PRESS THE
MATTER AT HIGHER LEVELS IN GOA.
SQUIRE

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